
PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Jeff Roche

Department of Public Works

See attached memorandum.

Other Departments and Agencies

See attached memorandum from Fire.

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Devcon Construction/ Monterey Lafayette, LLC, is requesting a Conditional Use Permit to allow a 26,100 square-foot food warehouse/wholesale facility in a portion of a larger 104,400 square-foot existing building, labeled as Building 5 on the Site plan. Accessory office uses and new freezers are proposed which are contained within the existing building envelope. The existing building was recently constructed under Site Development Permit H 99-049, and was designed to accommodate warehouse and wholesale uses. Conditional Use Permit (CP 03-025) were recently approved for a similar use in another portion of this building.

The subject site was previously zoned *I-Industrial* which permitted warehousing as-of-right. The existing buildings were constructed while the property was zoned *I-Industrial* and were designed to accommodate warehouse uses. On February 19, 2001, the City Council adopted an updated Zoning Ordinance, and the *I-Industrial* zoning designation changed to *IP-Industrial Park*. Warehousing is permitted in the *IP-Industrial Park* District with an approved Conditional Use Permit.

The site is surrounded by industrial uses to the north, south, east and west.

The applicant has submitted the original plans approved under Site Development Permit H 99-049. This Conditional Use Permit applies only to Building 5 shown on the attached plan set.

ENVIRONMENTAL REVIEW

Because this project involves use of an existing warehouse built for warehouse/wholesale uses, it is considered a negligible expansion of use and, the Director of Planning concluded that the proposed project is exempt from environmental review under Section 15301 of the California Environmental Quality Act Guidelines.

GENERAL PLAN CONFORMANCE

The proposed warehousing use of the property is in conformance with the *HI Heavy Industrial* designation of the property in the San José 2020 General Plan Land Use/Transportation Diagram.

COMMUNITY OUTREACH

A public hearing notice for the project was mailed to all property owners and tenants of properties located within 500 feet of the subject site. Staff has received no communication about the project.

ANALYSIS

The primary issues for the proposal are building design and land use compatibility.

The collection of six buildings that are found on the site are industrial in nature. The design of buildings 3 and 4, located adjacent to Monterey Highway, is industrial park in nature in order to present an appropriate façade to the public right-of-way. Buildings 1, 2, 5, and 6, are located to the middle and rear of the site and are designed for warehouse and wholesale uses. Building 5, a portion of which is proposed to accommodate the food warehouse/wholesale facility, is aptly designed for this use.

The proposed warehousing/wholesaling use is compatible with the industrial uses in the surrounding area. Light and heavy industrial uses are characteristic along Monterey Highway, particularly between Curtner Avenue and Bellevue Avenue. The proposed warehouse use maintains the industrial nature along Monterey Road and is well suited to the design of the existing building. Parking is sufficient to meet the low parking requirement for a warehouse use. As no major modifications to the existing building are proposed, the full range of industrial or industrial park uses could be reinstated in the future in response to future changing market demand.

Conclusion

Based on the above analysis, staff concludes that the proposed project will be compatible with the surrounding uses and is consistent with both the General Plan and Zoning Ordinance.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of HI Heavy Industrial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The site has a designation of IP Industrial Park by the Zoning Ordinance.
3. Warehousing and wholesale uses are allowed as a Conditional Use in the IP Industrial Park Zoning District.
4. A collection of six industrial buildings was constructed under Site Development Permit H99-049.

5. An existing 104,000 square-foot structure (Building 5) on the project site was designed for warehouse uses.
6. A food warehouse/wholesale facility proposes to occupy up to approximately 26,100 square feet of Building 5.
7. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements.
8. On-site parking is provided in compliance with the Zoning Ordinance.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The number of off-street parking spaces provided adequately meets the parking requirements of the individual buildings and uses as specified in Chapter 20.90 of this Title.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Seafood Connection, Inc. – 1979 Monterey Road" dated May 18, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled, and maintained so that no light source is visible from outside of the property.
4. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
5. **Colors and Materials.** All colors and materials are to be those specified on the approved plan set.
6. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.

7. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
8. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-02063) to the satisfaction of the Director of Public Works:
 - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 03-040, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
10. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage.
11. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public streets each working day. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
13. **Building Permits.** The applicant shall obtain building permits for conversion of the structure to office use prior to implementing the use.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council

on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.